



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,362	04/06/2001	Stephen Gold	30014165 US	3922

22879 7590 01/09/2006

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

PATEL, HARESH N

ART UNIT PAPER NUMBER

2154

DATE MAILED: 01/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/827,362

Applicant(s)

GOLD ET AL.

Examiner

Haresh Patel

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 59-79 is/are pending in the application.
- 4a) Of the above claim(s) 59-78 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 79 is/are rejected.
- 7) ☒ Claim(s) 79 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 59-79 are subject to examination. Claims 1-58 are cancelled.

Response to Arguments

2. Applicant's arguments with respect to newly presented claim 79 have been considered but are moot in view of the new ground(s) of rejection.

Election/Restrictions

3. Newly submitted claims 59-78 are directed to an invention that is independent or distinct from the invention originally selected invention, for the following reasons:

Claims 59-78 are drawn to a method of operating a plurality of logically grouped headless computer entities configured to supply functionality to a client computer entity, wherein the client computer entity includes at least one user account on one of said grouped headless computer entities, user accounts already on said grouped headless computer entities, usage of master application configuration settings to applications program resident, wherein the application settings are communicated via a set of API calls along with a tester, an account opener and an aggregation service application, which the applicant selected claimed invention, i.e., previously presented claims and newly presented claim 79 is lacking.

Since applicant has received an action on the merits for the selected invention, this invention has been constructively elected by original (selected) presentation for prosecution on the merits. Accordingly, claims 59-78 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Drawings

4. New corrected drawings are required in this application because figures 1-20 of the application do not show claimed invention, i.e., “agent component is arranged to operate to automatically allocate said slave computer functionality, creating a plurality of user accounts, each said user account providing an amount of computing functionality to an authorized user; selecting a said slave computer entity and allocating said user account to said slave computer entity; and allocating to each said user account an amount of computing functionality provided by a said slave computer entity. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled -- Replacement Sheet-- in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Response to Amendment

5. The amendment filed 10/27/2005 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall

Art Unit: 2154

introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

- a. addition of limitations, “amount of computing functionality”, “slave computer functionality”, in claim 79.

Applicant is required to cancel the new matter, to avoid abandonment of this application, in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 79 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art to use and/or make the invention.

7. The specification does not contain subject matter to implement limitations, “amount of computing functionality” and “slave computer functionality”, as cited in claim 79. The specification fails to define the “amount of computing functionality” and “slave computer functionality”. Also the specification, for example, page 15, states, “Although in this specific embodiment the server functionality of bulk data storage is supplied by the aggregation group, in the broadest context of the invention, the functionality can be any computing functionality which can be served to a plurality of client computer entities, including but not limited to server

Art Unit: 2154

applications, server email services or the like”, which does not contain what is meant by “amount of computing functionality” and “slave computer functionality”.

Examiner has reviewed the specification (and OCR whole document) and could not find support for the additional limitations as claimed.

Claim Objections

8. Claim 79 is objected to because of the following informalities:

a) line 4, mentions, “a said computer entity”, which should be, --one of said second plurality of computer entities--;

b) line 5, mentions, “one of said computer entities”, which should be, --one of said second plurality of computer entities--;

c) line 13, mentions, “said user account”, which should be, either --said user accounts-- or --one of said user accounts--;

d) line 11, mentions, “user accounts, each said user account”, which should be, --user accounts; wherein each of said user accounts--;

e) line 15, mentions, “each said user account”, which should be --each of said user accounts--;

f) line 13, mentions, “selecting a said”, which should be --selecting said--; lines 15-16, mention, “a said slave”, which should be --said slave--;

g) line 1, mentions, “a computer system”, which should be --a method for a computer system-- (note: lines 11 – 16 are method steps).

Art Unit: 2154

h) line 8, mentions, "to one or more users", which should be --to one or more user accounts-- (note: agent allocate functionality to the user accounts and not to the users themselves).

Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 79 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of Gold et al., copending application 09/800,100. Although the conflicting claims are not identical, they are not patentably distinct from each other because the patent teaches all the limitations as disclosed such that the interpretation of a computer system comprising claimed entities is similar to a set of components comprising a master and slave configuration components. The claimed subject matter of claims 1-20 of copending application 09/800,100 does not specifically mention about allocating to each the user account an amount of computing functionality modified by the computer entity. However, it is well known in the art; for example, Grady-WuliWeb discloses a well-known

Art Unit: 2154

concept of allocating to each the user account an amount of computing functionality (e.g., paragraph 71, figures 8, 9, 12, 13) modified by the computer entity (e.g., paragraph 71, figures 8, 9, 12, 13). With Grady-WuliWeb teachings it would be obvious to one of ordinary skill in the art to include the concept of allocating to each the user account an amount of computing functionality modified by the computer entity with the claimed subject matter of claims 1-20 of copending application 09/800,100.

This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 79 is rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman et al., Citrix Systems, 6,785,713 (Hereinafter Freeman-Citrix) in view of U.S. Publication, 2001/0056463, WuliWeb Inc., (Hereinafter Grady-WuliWeb).

11. As per claim 79, Freeman-Citrix discloses a computer system (e.g., figure 1) comprising:
a first plurality of client computer entities (e.g., col., 5, lines 17 – 38); and
a second plurality of computer entities connected logically into a group (e.g., col., 5, lines 29 – 54, figure 1) in which:

a said computer entity in the group is designated as a master computer entity (e.g., col., 7, lines 42 – 54, figure 1);

at least one of said computer entities in the group is designated as a slave computer entity (e.g., col., 7, lines 42 – 54, figure 1);

said slave computer entity (e.g., col., 7, lines 42 – 54, figure 1) comprises an agent component for allocating functionality (e.g., col., 9 lines 34 – 64, col., 10, lines 39 – 59) provided by said slave computer entity (e.g., col., 7, lines 42 – 54, figure 1) to one or more users operating said client computer entities (e.g., col., 5, lines 17 – 38) served by said group of computer entities (e.g., col., 5, lines 29 – 54, figure 1), wherein said agent component is arranged (e.g., col., 9 lines 34 – 64, col., 10, lines 39 – 59) to operate to automatically allocate (e.g., col., 8, lines 38 – 56) said slave computer functionality (e.g., col., 7, lines 42 – 54, figure 1) by:

creating a plurality of user accounts (e.g., col., 47, lines 7 – 38), each said user account providing an amount of computing functionality to an authorized user (e.g., col., 48, lines 9 – 38);

selecting (e.g., col., 49, lines 1 – 36) a said slave computer entity (e.g., col., 7, lines 42 – 54, figure 1) and allocating (e.g., col., 49, lines 1 – 36) said user account (e.g., col., 47, lines 7 – 38) to said slave computer entity (e.g., col., 7, lines 42 – 54, figure 1).

However, Freeman-Citrix does not specifically mention about allocating to each the user account an amount of computing functionality modified by the computer entity.

Grady-WuliWeb discloses a well-known concept of allocating to each the user account an amount of computing functionality (e.g., paragraph 71, figures 8, 9, 12, 13) modified by the computer entity (e.g., paragraph 71, figures 8, 9, 12, 13).

Art Unit: 2154

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Freeman-Citrix with the teachings of Grady-WuliWeb in order to facilitate allocating to each the user account an amount of computing functionality modified by the computer entity because the allocated amount of computing functionality would provide support to the user account. The modified computing functionality would support each user to utilize the user account supported functionality.

Conclusion

12. The prior art made of record (forms PTO-892 and applicant provided IDS cited arts) and not relied upon is considered pertinent to applicant's disclosure. For example, Yahoo!, 03/31/2001, www9.yahoo.com, pages 1-2; and Shafron, 2004/0165007, also contain, Yahoo Briefcase, which provides similar users accounts support over the Internet.

Examiner has cited particular columns and line numbers and/or paragraphs and/or sections and/or page numbers in the reference(s) as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety, as potentially teaching, all or part of the claimed invention, as well as the context of the passage, as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haresh Patel whose telephone number is (571) 272-3973. The

Art Unit: 2154

examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 10:00 am to 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Haresh Patel

December 30, 2005

 JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 100